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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 537,420	01 18 2000	Takashi Okada	020406-102	6835

7590 07 17 2003

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EXAMINER

PERKEY, WILLIAM B

ART UNIT PAPER NUMBER

2851

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/537,420

Applicant(s)

OKADA ET AL.

Examiner

William B. Perkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 23-39 is/are pending in the application.
- 4a) Of the above claim(s) 23-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 08/659,690.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

- 1) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-1449) Paper No(s) \_\_\_\_\_
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

6) ☐ Other \_\_\_\_\_

### DETAILED ACTION

1. Newly submitted claims 23-39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Originally presented claim 1 was directed to a hybrid camera having first and second aperture diaphragms at specific locations within the camera a controller that controls the aperture diaphragms in a correlative manner classified in class 396 subclass 257. (The cancellation of claims 2-22 before the first Office action is acknowledged.) The newly presented claims are directed to a camera with a display to show the subject scene as sensed by an image sensor classified in class 396 subclass 374. The display device and diaphragm aperture controller are disclosed as subcombinations used in a single camera. Since, the display arrangement of the new claims is usable in a camera not having the particular placement and control of the aperture diaphragm mechanisms of the canceled original claim 1, and vice-versa, the newly presented claims are independent and distinct from the invention as originally claimed. The search performed by the Office for the originally presented claims, is not appropriate for the invention of the newly presented claims. Shifting the claims to an independent and distinct invention places an undue burden on the Office, because an entirely new search would have to be made.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The amendment filed on 04-07-03 canceling all claims and presenting only claims drawn

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readable on the elected invention because the new claims are not drawn to a hybrid camera having specific locations of first and second aperture diaphragms with a controller that correlatively controls the aperture diaphragms.

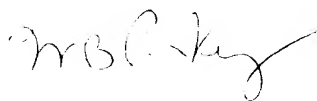
Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

#### **Telephone Numbers**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William B. Perkey whose telephone number is (703) 308-1708. The examiner can normally be reached on Monday-Thursday 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



William B. Perkey  
Primary Examiner  
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July 15, 2003